IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Rev.No.192 of 2006
Date of Decision: 21-9-2006

Kavita @ Seema wife of Sh.Suresh Kumar and daughter of Sh.Boota Ram Dutta, resident of 12 Brij Puri, Yamuna Nagar

.....Petitioner

VERSUS

1.Parmod Kumar son of Kasturi Lal
2.Naveen Kumar son of Kasturi Lal
3.Kasturi Lal son of Beli Ram
4.Darshana Rani wife of Kasturi Lal
5.Suresh Kumar son of Kasturi Lal
all residents of 53-G, Prahhlad Nagar, Marruth
6.State of Haryana

.....Respondent

CORAM:- HON'BLE MR.JUSTICE K S GAREWAL
HON'BLE MR.JUSTICE R S MADAN

PRESENT: Mr.TS Chauhan,Advocate
for the petitioner.

Mr.PS Sullar, Deputy Advocate General, Haryana.

R S MADAN, J.

The present Criminal Revision No.192 of 2006 and Criminal Misc.No.93-MA of 2006 have arisen out of the common judgment of acquittal dated 14-7-2005 passed by the learned Judicial Magistrate Ist Class, Jagadhri.

Criminal Misc.No.93-MA of 2006 was filed by the State of Haryana for the grant of leave to appeal against the aforesaid order

whereas the criminal revision has been filed by the wife against the order of acquittal of the respondent.

The common facts of the case are that on 4-7-1995, Kavita @ Seema, complainant got a statement recorded to the police of Police Station City Yamunanagar wherein she stated that she was married to Suresh Kumar resident of U.P. on 22-2-1992 according to Hindu Rites and Ceremonies. On the following day of the marriage, her mother-in-law, Darshana Rani, father-in-law, Kasturi Lal and brother-in-law, Parmod Kumar started taunting her for bringing inadequate dowry in the marriage. It was on 25-2-1992, she came to Yamunanagar alongwith her husband and was staying there. On 27-2-1992, her mother-in-law and father-in-law also came to Yamunanagar to fetch her. They also stayed there up to the first week of May, 1992. It has further come to the notice from her statement that she was continuously harassed and asked by her in-laws to bring Rs.10,000/- from her father. She has been opposing their demand on the pretext that her father had already spent a sum of Rs.2 lacs in the marriage and he has no capacity to pay any such amount. She further stated that she was physically tortured by her in-laws, by the respondent and during her stay at the house of her in-laws, she was exhibited a threat by the respondent to kill her if she informed anyone about their behaviour. It was in the month of May, 1992, her father gave Rs.10,000/- to her husband. Even on the festivals, her parents used to give gifts and cash etc. On 9-6-1993, a girl child was born out of this wedlock and her parents spent about Rs.7,000/- on gift articles etc. and gave Rs.500/- in cash to her in-laws but they were dis-satisfied with the gifts and cash etc. She further stated that her husband, mother-in-law and brother-in-law used to beat her by fist and

slaps blow. It was then her brother, mother and her uncle Baldev Raj reached and her in-laws complained to her parents and also threatened her not to disclose anything to her parents. They had been demanding motor-cycle. It was in the month of November, 1993, a compromise was arrived between the parties and her in-laws had ensured that they would not make any kind of demand in future and would also not mal-treat the complainant. It is on 1-12-1993, her husband again made a demand of motor-cycle and in the first week of May, 1994, they demanded Rs.20,000/- from her parents and her parents gave Rs.20,000/- to her husband. However, her husband insisted his demand of motor-cycle upon which her father requested him to wait for six months so that motor-cycle could be given to him. She furnished list of articles and requested the Police to take appropriate action.

On appearance of the accused before the Court, they were charge-sheeted under Sections 498-A/406/506 of the Indian Penal Code. The said charge was read over and explained to the accused in simple Hindi, to which they denied and claimed trial.

The prosecution relied upon the testimony of the following witnesses i.e. PW1-Dharamvir, PW2-Simmi, PW3-Rajinder Kumar, PW4-Shiv Dayal, PW5-Buta Singh and PW6-Jai Ram and thereafter evidence of the prosecution was closed.

After the evidence of the prosecution was closed, the accused were examined under Section 313 Cr.P.C. in which entire version of the prosecution was put to them to which they denied and pleaded innocence.

No evidence was led by the accused in defence.

On appraisal of the prosecution evidence, the learned

Judicial Magistrate Ist Class, Jagadhri did not find favour with the prosecution evidence and thereby acquitted the accused.

The State has now filed the criminal misc. appeal for the grant of leave to appeal against the impugned order of acquittal whereas the complainant has also filed a criminal revision No.192 of 2006 against the respondent.

We have heard the learned counsel for the parties and have carefully gone through the record.

On behalf of the petitioner, it is contended that there was sufficient evidence available on the record, which warranted the order of conviction to be recorded by the learned Judicial Magistrate Ist Class, Jagadhri whereas he has not relied upon the evidence of the prosecution and given the benefit of doubt to the accused. In support of his arguments, reference was made to the statement of Simmi, complainant and her sister. In her testimony, she stated before the Court that on the very next day of the marriage, she was taunted by her father-in-law, mother-in-law and brother-in-law for bringing inadequate dowry in the marriage. She further stated that during the subsistence of marriage, her father gave Rs.10,000/- to her husband. She also relied upon her letters Ex.P1 to P3.

PW5-Buta Singh is the father of PW2-Simmi, who has also corroborated the version of the complainant-Simmi.

The learned trial Court has dealt with the evidence of the prosecution in detail by giving its reasons to dis-agree with the statement of the prosecution witnesses. The trial Court has observed that the marriage between the parties was solemnized on 22-2-1992 whereas she has lodged a complaint after 03 and ½ years of marriage with her husband.

The complainant has disclosed the tale of her woes at the house of her in-laws but it is surprised that she remained silent for a period of three years and did not report to the matter either to the Police or to the members of the Biradari about the mal-treatment, which she had received at the hands of her husband and in-laws in connection with demand of dowry.

The learned trial Court has also come to the conclusion that it was a case of failure of marriage and nothing beyond that and in order to take revenge from her in-laws, she concocted this version of demand of dowry and mal-treatment by respondents during her stay in the matrimonial home. No specific demand is stated to have been made nor it is proved on the record that the demand of the respondent was fulfilled by the parents of the complainant.

In this view of the matter, the learned Magistrate has rightly observed that the complainant has miserably failed to prove on the record that there was any demand of cash or any articles attributed to any of the accused. Consequently, the accused were acquitted.

Learned counsel for the parties were unable to convince us that the reasoning adopted by the trial Court was against the evidence of the prosecution. It is a cardinal principles of criminal jurisprudence that the prosecution has to stand on its own legs before the order of conviction is recorded against the accused and the prosecution cannot take the advantage of the weaknesses of the defence. Even if the entire evidence led by the prosecution is taken to be as a gospel truth, still no case for mal-treatment and demand of dowry articles against the respondent is made out. So far as the articles given in the marriage are concerned, they had already been returned to the complainant party during the investigation of the case.

No infirmity in the impugned order of the Judicial Magistrate Ist Class, Jagadhri is pointed out by the learned counsel for the parties. Resultantly, the Criminal Revision No.192 of 2006 filed by the complainant wife and Criminal Misc.No.93-MA of 2006 filed by the State of Haryana for grant of leave to appeal are hereby dismissed.

(R S MADAN)
JUDGE

(K S GAREWAL)
JUDGE

September 21, 2006
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